IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Criminal Application No.2803 of 2007

State of Maharashtra Applicant
Vs.
Narayan Pandurang Bangar & ors. Respondents

Mr.A.S.Shitole, APP for State.

CORAM: B.H.MARLAPALLE, J.
August 28, 2007.

P.C.

. Heard Mr.Shitole, the learned APP. This an application for leave to appeal under Section 378(3) of Cr.P.C. against the order of acquittal passed by the learned Ad-hoc Addl. Sessions Judge-I, Pune on 25/4/2007 in Sessions Case No.406 of 2006. The present respondents were put on trial before the Sessions Court for the offences punishable under Sections 306, 306 read with Section 34, 498-A, 498-A read with Section 34 of IPC and the learned Ad-hoc Addl. Sessions Judge was pleased to acquit all the accused from all the offences.

. Accused no.1 - Narayan was married to Alka who allegedly committed suicide on 13/5/2006 at her matrimonial home and accused no.2 lodged the information with the Manchar Police Station on the same day and on that basis A.D.No.26/2006 came to be

registered. Thereafter, Santosh, the brother of Alka lodged a complaint on 28/5/2006 alleging that the accused ill-treated his sister during her life time and further alleged that the accused had abetted the suicidal death of Alka and consequently C.R. No.49/06 came to be registered for the offences punishable under Sections 306, 323, 498-A, 504 and 506 read with Section 34 of IPC. The prosecution examined in all five witnesses i.e. PW 1 - Santosh Karale, the brother of the deceased and the complainant, PW 2 - Tanaji Karale, the step brother of the deceased, PW 3 - Sakharam Bangar, the panch witness for the spot panchanama, PW 4 - Chandrakant Shikhare, panch witness for the spot panchanama and PW 5 API Dhawle. The inquest panchanama was brought on record at Exhibit 12, the death certificate was brought on record at Exhibit 13 and the post mortem report was at Exhibit 24. In their statements recorded under Section 313 of Cr.P.C. all the accused stated that they were falsely implicated in the complaint filed by Santosh.

. The evidence led by the prosecution clearly went to show that deceased Alka was married to the accused no.1 about nine years prior to the date of

incident and that Alka died due to the burn injuries. It was the prosecution case that Alka was being ill-treated because she gave birth to only female children and that accused no.1 was demanding an amount of Rs.10,000/- from the father for purchase of motor cycle and on the count she was being ill-treated, she was not being fed property and was being abused. The prosecution case is based on the evidence of two witnesses i.e. PW 1 - Santosh and PW 2 - Tanaji. It came in the evidence of the prosecution that Alka delivered a male child and thereafter she was living a normal life for two and half years. The evidence of PW 1 Santosh in his examination-in-chief made the allegations of ill-treatment to Alka on the ground that she delivered one female child and the same was supported by PW 2 Tanaji. In his cross-examination it was brought out by the defence counsel that this testimony was an improvement and such a statement did not find place in the FIR. When PW 5 API Dhawle was in the witness box, he specifically stated that the complainant had not informed him that accused used to tease Alka that she was delivering female children only. The trial Court, therefore, discarded the testimony of PW 1 supported by PW 2 on this count.

The trial Court also recorded a finding that Alka met a homicidal death on 13/5/2006 and for more than 15 days the complainant did not approach the police. In justification he had stated that he was under mental shock. This explanation was not found to be reliable more so till the cremation of Alka, the police were present all along and PW 2 admitted in his cross-examination that when the complainant's party reached the spot, the police made enquiry from PW 1 whether he had any complaint and PW 1 did not come forward to raise any grievance regarding the cause of death of Alka.

. On the face of this evidence as adduced before the trial Court, I am satisfied that the reasoning set out in support of the order of acquittal does not call for any reconsideration at the hands of this Court and hence there is no case made out to grant leave to appeal.

. Consequently, the application stands rejected.

(B.H.MARL